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MISSOULA, MT

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PATRICK E. DUFFY

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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
MISSOULA DIVISION

CYRILL KOLOCOTRONIS,	)	CV 07-74-M-DWM
	)	
Plaintiff,	)	
	)	
vs.	)	ORDER
	)	
BENEFIS HEALTH CARE, and	)	
COLUMBUS HOSPITAL,	)	
	)	
Defendants.	)	
	)	

United States Magistrate Judge Jeremiah C. Lynch entered Findings and Recommendation in this matter on August 27, 2007, after conducting a preliminary screening of Plaintiff's Amended Complaint. Judge Lynch recommended dismissing Plaintiff's Amended Complaint as barred by the doctrine of res judicata. Plaintiff timely objected to the Findings and Recommendation on September 10, 2007.<sup>1</sup> Plaintiff therefore is entitled to de novo

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<sup>1</sup>Plaintiff termed his objections a "Motion for Reconsideration." The Court will construe the motion as Plaintiff's objections to Judge Lynch's Findings and Recommendation.

review of the record. 28 U.S.C. § 636(b)(1).

Plaintiff's objections are difficult to decipher, but they do not appear to address the merits of Judge Lynch's Findings and Recommendation. In any event, after conducting a de novo review of the record, I agree with Judge Lynch's analysis and conclusion.

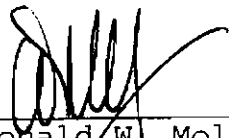
Plaintiff's Amended Complaint seeks damages from Defendants for a lobotomy and electric shock treatments Defendants allegedly performed on Plaintiff against his will over forty years ago. In 1987, Plaintiff filed a similar lawsuit in the Great Falls Division of this Court. See Kolocotronis v. Malstrom Air Force Base Hospital, et al., CV 87-177-GF-PGH. Plaintiff's Complaint in the 1987 case was dismissed as frivolous and malicious. The 1987 case involved the same claims, and the same parties or their privies, as the instant case. Additionally, the frivolousness determination in the 1987 case has res judicata effect on the instant in forma pauperis proceeding. See Denton v. Hernandez, 504 U.S. 25, 34 (1992). For these reasons, the instant action is barred by the doctrine of res judicata. See Allen v. McCurry, 449 U.S. 90, 94 (1980) ("[A] final judgment on the merits of an action precludes the parties or their privies from relitigating issues that were or could have been raised in that action."). Accordingly,

IT IS HEREBY ORDERED that Judge Lynch's Findings and

Recommendation is adopted in full. Plaintiff's Amended Complaint is DISMISSED as barred by the doctrine of res judicata.

The Clerk of Court is directed to close the case.

Dated this 17<sup>th</sup> day of September, 2007.

  
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Donald W. Molloy, Chief Judge  
United States District Court  
